

***United States Court of Appeals
for the Second Circuit***



APPELLEE'S BRIEF

No. 77-1342

ORIGINAL

IN THE
UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

UNITED STATES OF AMERICA,

Appellant,

vs.

DOUGLAS P. FIELDS, FREDERICK M. FRIEDMAN,
PETER S. DAVIS, ALAN E. SANDBERG, and
ERIC BERGE,

Defendants-Appellees.

To be argued by

STEPHEN V. WILSON

Bp/s

BRIEF FOR DEFENDANT-APPELLEE ERIC BERGE

On Appeal From
The United States District Court
For the Southern District of New York



HOCHMAN, SALKIN and DeROY
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Stephen V. Wilson
of Counsel

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-against-

Docket No. 77-1342

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FRIEDMAN, PETER S. DAVIS, ALAN
E. SANDBERG and ERIC BERGE,

Defendants-Appellees.

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BRIEF FOR DEFENDANT-APPELLEE ERIC BERGE

Defendant Berge was named only in counts five and twelve of the indictment (76 CR 1022). The District Court in its orders entered on May 26th and June 3rd, 1977, dismissed Berge as to count five.

Counsel for Berge has examined the record and studied the briefs filed on behalf of defendants Fields, Friedman, David and Sandberg. Since those briefs fully set forth Berge's position, he joins in them and adopts the arguments made therein.

CONCLUSION

For the reasons set forth in the briefs lodged on behalf of defendants Fields, Friedman, Davis and Sandberg, it is respectfully submitted that the District Court's orders should be affirmed.

Respectfully submitted,

HOCHMAN, SALKIN and DeROY
A Professional Corporation

STEPHEN V. WILSON
of Counsel

(CERTIFICATE OF SERVICE BY MAIL - RULE 25, F.R.A.P.)

Evangeline A. Gutierrez, certifies that (s)he is a citizen of the United States, over 18 years of age, a resident of the County of Los Angeles, and not a party to the within action; that ~~(his)~~ (her) business address is: 732 East Washington Boulevard, Los Angeles, California 90021; that on the 31st day of October, 19 77, (s)he served the within

Brief for Defendant-Appellee Eric Berge
on the following named parties
in said action, by placing a true copy thereof in an envelope addressed to the attorney(s) of record for said parties at the office address of said attorney(s) as follows:

Bender & Frankel (2 copies)
225 Broadway
New York, New York 10007

Grand & Ostrow (2 copies)
375 Park Ave.
New York, New York 10022

Orans, Elsen & Polstein (2 copies)
One Rockefeller Plaza
New York, New York 10020

Robert B. Fiske (2 copies)
United States Attorney
Southern District of New York
One St. Andrews Plaza
New York, New York 10007

and by then sealing said envelope and depositing the same, with postage thereon fully prepaid in the United States mail at Los Angeles, California; that there is a delivery service by United States mail at the place so addressed, or there is a regular communication by United States mail between the place of mailing and the place so addressed.

Note: Defendant-Appellee claims the 3-day mailing period of Rule 26-c of the Rules of Appellate Procedure.
I certify under penalty of perjury that the foregoing is true and correct.

Dated at
Los Angeles, California
October 31, 1977

Evangeline A. Gutierrez